



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[EPA-R07-OAR-2018-0828; FRL 9989-43-Region 7]

**Approval of Operating Permits Program; Kansas; Reporting
Emission Data, Emission Fees and Process Information**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve revisions to the Operating Permits Program (OPP) for the State of Kansas. This final action will amend the Kansas rules to reorganize, clarify, and update the Class I emission fee, application fee, and emissions inventory regulations and ensure that Kansas's OPP is adequately funded. Approval of these revisions ensures consistency between the State and federally-approved rules and does not impact air quality.

DATES: This final rule is effective on **[Insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R07-OAR-2018-0828. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although

listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov> or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

FOR FURTHER INFORMATION CONTACT: Deborah Bredehoft, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551-7164, or by email at Bredehoft.Deborah@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document “we,” “us,” and “our” refer to EPA.

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I. Background

On December 19, 2018 (83 FR 65115), EPA published a notice of proposed rulemaking (NPR) for the State of Kansas. In the NPR, EPA proposed approval of revisions to the Kansas OPP. The

revisions were submitted by the State of Kansas on January 22, 2018. Revisions to the program include revoking Kansas Administrative Regulation (K.A.R.) 28-19-202; adding new language to K.A.R. 28-19-517 which parallels language in the revoked K.A.R. 28-19-202; increasing the annual emission fee from \$37 dollars per ton to \$53 dollars per ton; increasing all application fees in K.A.R. 28-19-516; establishing a baseline emission fee; and adding additional clarifications to the Program to address fees, refunds, electronic submittal, and who is required to submit an annual emissions inventory. A detailed discussion of Kansas's OPP submission and EPA's rationale for approving the OPP submission were provided in the NPR and the associated Technical Support Document in the docket for this rulemaking and will not be restated here. No comments were received regarding the NPR.

II. Have the Requirements for Approval of a Part 70 Revision Been Met?

The state provided a public comment period for this OPP revision from September 7, 2017, to November 15, 2017, and received comments. In response to the comments, Kansas revised the rule prior to submitting to the EPA. The revisions are consistent with applicable EPA requirements in title V of the CAA and 40 CFR part 70.

III. What Action is EPA Taking?

The EPA is taking final action to approve revisions to the Kansas OPP by approving the State's request to revoke K.A.R. 28-19-202, Annual emissions fees; and to amend K.A.R. 28-19-516, Class I operating permits, application fees; and K.A.R. 28-19-517, Class I operating permits, annual emissions inventory and fees. Approval of these revisions will ensure consistency between the state and federally-approved rules. EPA has determined that these changes will not adversely impact air emissions.

IV. Statutory and Executive Order Reviews

This final action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this final action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because Title V approvals are exempted under Executive Order 12866.

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this approval of the revision to Kansas's Title V Operating Permit Program does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b) (1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[Insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b) (2).)

List of Subjects in 40 CFR Part 70

Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: _____

February 22, 2019.

James Gulliford,
Regional Administrator,
Region 7.

For the reasons stated in the preamble, EPA amends 40 CFR part 70 as set forth below:

PART 70 -- STATE OPERATING PERMIT PROGRAMS

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. Amend appendix A to part 70 by adding paragraph (g) under Kansas to read as follows:

Appendix A to Part 70 -- Approval Status of State and Local Operating Permits Programs

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Kansas

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(g) The Kansas Department of Health and Environment submitted revisions to Kansas rules K.A.R. 28-19-202, K.A.R. 28-19-516, and K.A.R. 28-19-517, on January 22, 2018. The state effective date is January 5, 2018. This revision is effective **[insert date 60 days after date of publication of the final rule in the Federal Register].**

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